



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: July 2, 2025

Case No. and Project Name: PZ2024-245, Besuden Property

Commissioner District: District 3 – Kirby Smith

Applicant(s): Sheila Cichra

Owner(s): Kimberly A. Besuden

Requested Action: Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) and Table 3.02.06, to 1) allow an accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required fifty (50) foot setback and 2) to allow for an ISR of 33.6%, in lieu of the maximum ISR of 30%.

Case Manager: Meagan Bracciale, Planner I

Subject Property Information

Size: 0.46 +/- acres

Location: 11135 Cypress Street, in the unincorporated Tavares area

Alternate Key No.: 1734479

Future Land Use: Urban Low Density (Attachment “A”)

Current Zoning District: Rural Residential (R-1) District (Attachment “B”)

Flood Zone(s): “X” and “AE”

JPA/ISBA: Tavares Interlocal Service Boundary Agreement (ISBA) area

Overlay/Rural Protection Area: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Rural Residential (R-1) District	Canal; Residential	Single-Family Residence North of the Canal
South	Urban Low Density	Rural Residential (R-1) District	Right-of-Way; Residential	Single-Family Residence South of Cypress Street
East	Conservation (Wetlands)	City of Tavares	Canal; Conservation	Vacant Conservation Land East of Canal within the City of Tavares
West	Urban Low Density	Rural Residential (R-1) District	Residential	Single-Family Residence

Summary of Request

The subject parcel is identified by Alternate Key Number 1734479 and contains approximately 0.46 +/- acres. The subject parcel is zoned as Rural Residential (R-1) District and is designated with an Urban Low Density Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. The subject parcel is developed with a primary dwelling unit, an accessory dwelling unit, pool, screened porch, seawall, and boat slip/dock (Attachment "C"). GIS maps indicate that the subject parcel is located within flood zones "X" and "AE" and there is no indication that wetlands exist on the site.

The Applicant is requesting a variance to LDR Section 6.01.04(A)(1) and Table 3.02.06, to 1) allow an accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required fifty (50) foot setback and 2) to allow for an ISR of 33.6%, in lieu of the maximum ISR of 30%. (Attachment "D" and "E").

The variance application was sent to the Public Works Department, Flood and Stormwater, and the Chief Fire Plans Examiner for review for a determination of consistency with their regulations.

The Public Works Department advised that, should the variance be approved, at the time of permitting *an interceptor/environmental swale that is sized to capture the first 1-inch of stormwater runoff from the impervious area of the parcel shall be provided on site. Also, an engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site.*

The Flood and Stormwater reviewer had the following final comments: *Based on the Finished Construction Elevation Certificate (EC), and the Topographic Survey provided by the Applicant, Floodplain Management Staff has determined that this structure is in compliance with all applicable floodplain regulations. The Finished Floor Elevation is well above the required Design Flood Elevation (DFE) of 65.3' NAVD88, as is all associated electrical, mechanical, and plumbing equipment servicing the structure.*

Given the information presented and confirmed, Floodplain Management Staff have no objections to the issuance of this variance.

The Chief Fire Plans Examiner did not identify any comments or concerns about the request.

The subject parcel identified by Alternate Key 1734479 is located within the City of Tavares Interlocal Service Boundary Agreement (ISBA). On October 8, 2024, the application was provided to the City of Tavares for review for a determination of consistency with their regulations. The City of Tavares has not provided any comments or concerns.

For background purposes, code case #2024050035 was opened on May 6, 2024 for an "unpermitted rental unit in accessory structure on vacant residential canal frontage." The subject property, identified by Alternate Key 1734479, was unified with a parcel, formally identified by Alternate Key 1184908, on June 24, 2024. The Unity of Title was recorded in Lake County Public Records under ORB 6354 Pages 1506-1508. This unification resolved the noncompliance with LDR 10.01.01(A), which states that there shall be a lawful dwelling unit on the lot, prior to an accessory structure being allowed. The property record card for the parcel, formerly identified by Alternate Key 1184908, showed that the parcel had a four hundred (400) square foot accessory structure dating back to 1974. The accessory structure was converted to an accessory dwelling unit at an unknown point in the past and is currently being utilized as a guest house. There is no record of building permits for the 1974 accessory structure or for the interior alterations that converted it to an accessory dwelling unit.

A building permit is required as the Applicant desires to change the use from an accessory structure to an accessory dwelling unit. To receive permits, the Owner must first obtain a zoning clearance, which cannot be granted without an approved variance to LDR Section 6.01.04(A)(1). Should the variance not be granted, the Owner will be forced to revert the accessory dwelling back to an accessory structure use. An approval of this variance will serve to bring the

property into compliance, allow the change of use to Accessory Dwelling Unit and will assist in resolving Code Case #2024050035.

In addition, the Owner applied for an Average Setback on August 15, 2024. The measurements resulted in an Average Rear Setback of 40.97 feet from the top of bank to the exterior wall of the single-family residence. This result did not assist the Owner in acquiring a zoning clearance for the accessory structure.

Should the Board of Adjustments approve this variance request, the Applicant will be required to obtain zoning and building permits to comply with Lake County Land Development Regulations.

– Staff Analysis –

A. LDR Section 14.15.02 states that variances will be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness.

1. The purpose of the Land Development Regulation will be or has been achieved by other means.

The intent of the Code, LDR Section 6.01.04, is to protect valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts, which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for the development of adjacent lands.

The requested variance will allow the current 1974 accessory structure to change use to an accessory dwelling unit and will impart development requirements for stormwater runoff that will further assist with protecting the adjacent canal from negative stormwater impacts. The parcel's shoreline is currently developed with a permitted seawall to protect the shoreline from erosion and the adjacent canal from potential sedimentation and degradation.

The intent of the Code, LDR Section 3.02.06, is to encourage a logical development pattern, protect water quality, manage stormwater runoff, and promote environmental health. Impervious surfaces can lead to urban flooding and pollution, which can harm aquatic ecosystems and drinking water supplies. Impervious surfaces can also cause significant stormwater runoff, which can lead to flooding and pollution. By reducing impervious surfaces, communities can manage these negative effects more effectively, reduce the risk of flooding, and protect our natural resources.

The requested variance to the existing Impervious Surface Ratio overage would allow all current structures to remain in place, however additional future development would not be approved without an additional variance to the allowed ISR granted. Additionally, the Development Order contains conditions that require stormwater calculations and stormwater runoff mediation requirements that will ensure any additional stormwater runoff will be managed to best avoid flooding and pollution.

The subject parcel complies with all other Land Development Regulations and Comprehensive Plan policies, as amended.

2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

The Applicant provided the following statement, *"The guest house was constructed more than 50 years ago. I purchased the property in 2006 with no knowledge that the guest house was unpermitted and non-conforming."*

B. Land Development Regulations Section 14.15.02 Variances and Appeals states that variances to the setback requirements from an ordinary high-water line, mean high water line, or jurisdictional wetland line may be granted if:

- 1. The lot is a developable Lot of Record, or the lot was legally created through a development order prior to March 2, 1993.**

A deed for the subject parcel, dated August 1, 1980, has been located (Attachment "D"). Pursuant to Lake County Comprehensive Plan Policy I-7.1.3(A), Existing Lot Exception for Density, and Lake County Land Development Regulations (LDR) Appendix E, Section 1.08.04(A), Existing Lots Nonconforming to Density Requirements, there shall be an exception to the density requirements for lots which were legally created by a deed dated and recorded in the Public Records of Lake County, Florida on or before May 20, 1981, which has met all requirements at the time it was approved by the Board of County Commissioners and recorded in the Public Records of Lake County. A dwelling unit and accessory uses thereto may be permitted on the lot.

- 2. All other remedies have been exhausted, such as a variance to all other setback requirements.**

Staff have determined that a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1), to allow an After-the-Fact (ATF) accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required fifty (50) foot setback, is a viable remedy, as the structure was built and recorded on the Property Appraiser's website as early as 1974. There is no record of a building permit for this structure.

- 3. The maximum developable area shall be limited to 30 feet in width or depth.**

The ATF Accessory Dwelling unit is a 20'x20' structure. The Development Order contains conditions that limit the maximum developable area to 30 feet in width or depth.

- 4. The first one inch (1") of storm water runoff shall be captured on site.**

The Development Order contains conditions that require stormwater calculations as follows:

- a. Stormwater calculations must be submitted at the time of issuance of each individual zoning permit in form of an interceptor swale that is sized to capture the first one inch (1") of stormwater runoff from the additional impervious area on the subject parcel.
- b. Stormwater calculations must be reviewed and approved by the Lake County Public Works Department staff.
- c. The stormwater abatement system must be depicted on the to-scale plot plan when applying for the zoning permit; installed prior to any final inspection, inspected, and approved by the Lake County Public Works Department staff.

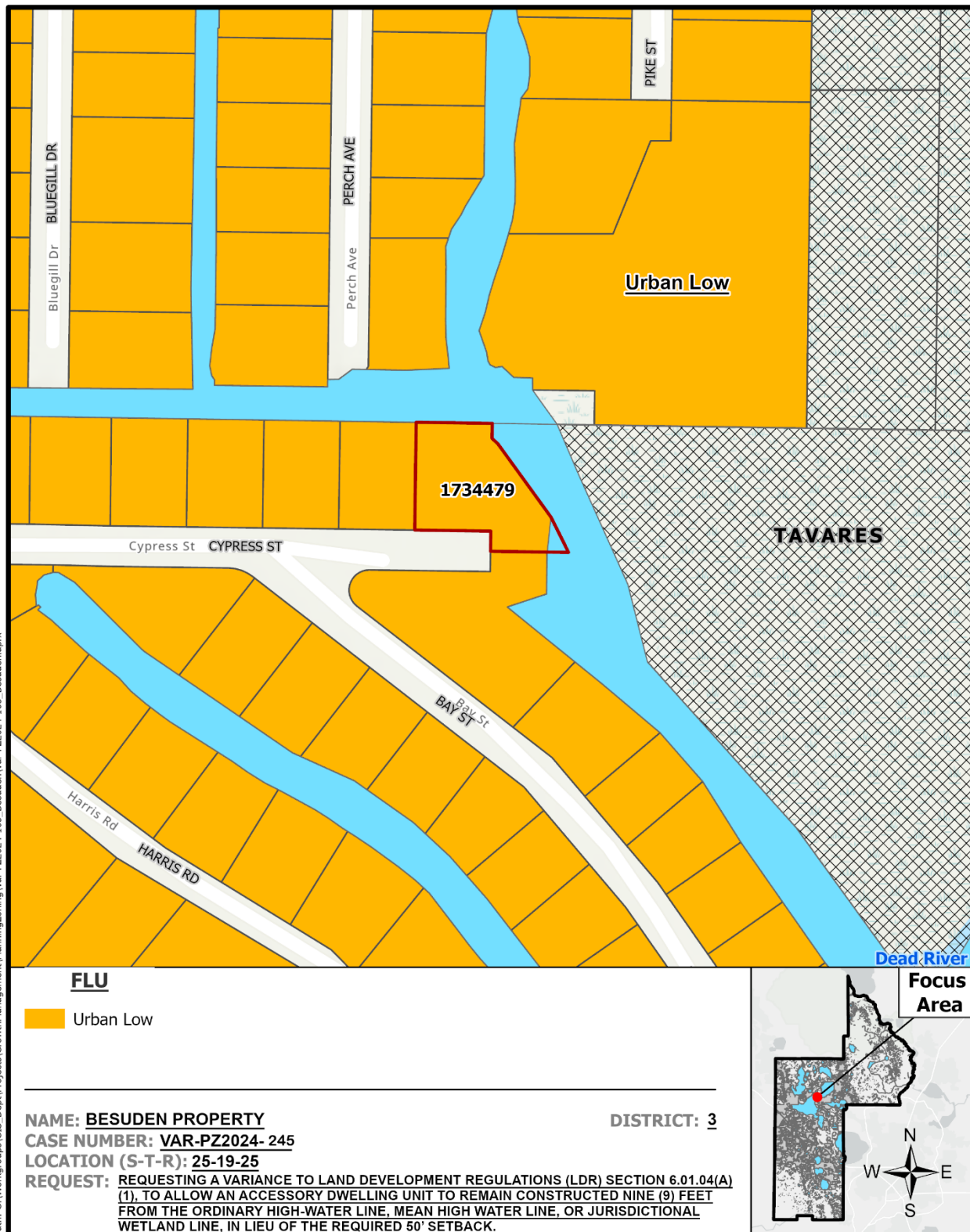
Calculations must be submitted and approved by the Lake County Public Works Department. at the issuance of each individual zoning permit.

- 5. Development is constructed as far landward on the lot as possible.**

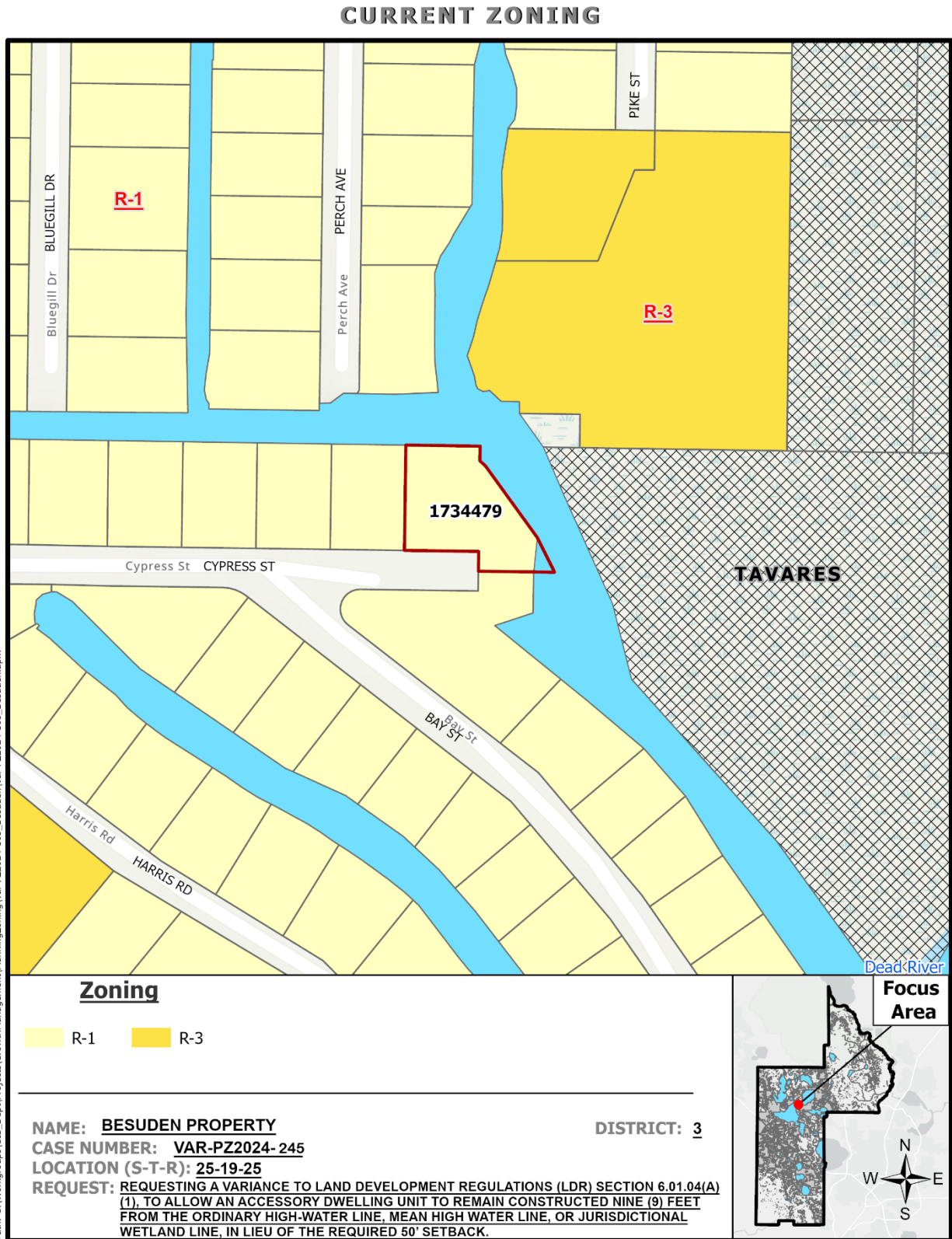
The ATF structure is positioned fully within the upland "X" flood zone and is 43.9-feet from the front property line.

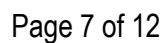
Attachment "A" – Future Land Use Map

CURRENT FUTURE LAND USE

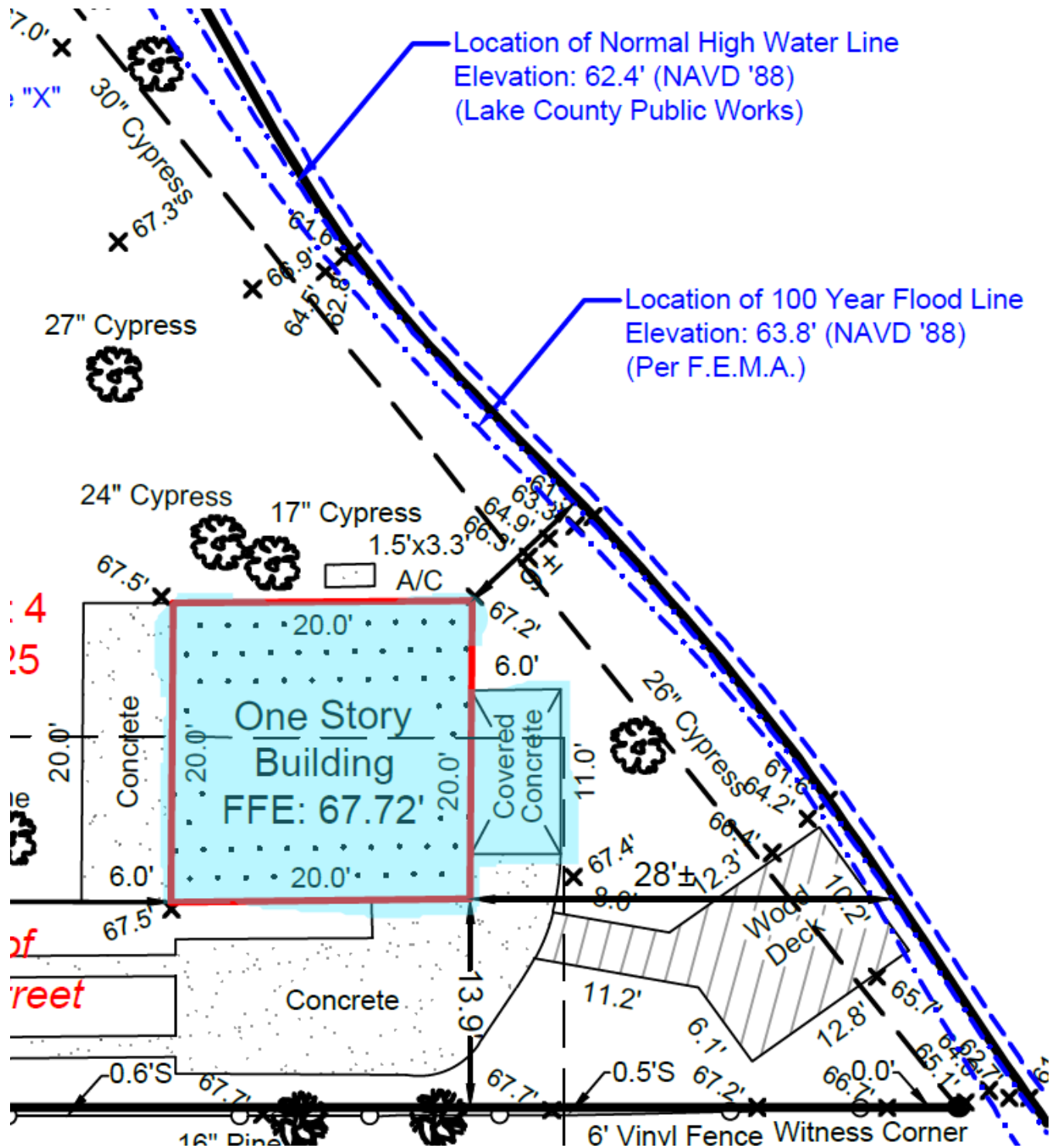


Attachment "B" – Zoning Map





Attachment “D” – Zoomed Survey



Attachment “E” – Accessory Structure Photo



Attachment "D" – 1980 Deed

REC-4.00
St 350.00
Sur

80 20656

705 2163

RAMCO FORM 01

This Warranty Deed Made the 1st day of August A. D. 19 80 by

Nathan H. Hixson and Mary F. Hixson, his wife

hereinafter called the grantor, to

William T. Vincent and Shella S. Vincent, his wife

creating hereby an estate by the entirety

whose postoffice address is 1024 The Lane, Lexington, Kentucky 40504

hereinafter called the grantee:

(Wherever used herein the terms "grantee" and "granted" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lake County, Florida, viz:

Lot 21 in Riverwood Unit Two, a subdivision in Lake County, Florida, according to the plat thereof, recorded in Plat Book 17, page 13, Public Records of Lake County, Florida.

ALSO:

That part of Government Lot 4 in Section 25, Township 19 South, Range 25 East, in Lake County, Florida, bounded and described as follows: Begin at the Southeast corner of Lot 21 in Riverwood Unit Two, a subdivision in Lake County, Florida, according to the plat thereof, recorded in Plat Book 17, page 13, Public Records of Lake County, Florida, and run South 0°01'30" West to the centerline of Cypress Street, now vacated, as shown on the said plat of Riverwood Unit Two; thence East along the centerline of the said Cypress Street and an extension East thereof to the waters edge of a canal; thence North-westerly along and with the waters of the said canal to the East line of the said Lot 21; thence South 0°01'30" West along the East line of the said Lot 21 to the point of beginning. Subject to easements of record, subject to restrictions of record to the grantee, the same are valid and enforceable with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1979.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Stephen A. Eggen *Nathan H. Hixson* *L.S.*
William D. Victor *Mary F. Hixson* *L.S.*

STATE OF FLORIDA
COUNTY OF LAKE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared

Nathan H. Hixson and Mary F. Hixson,
his wife

to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 1st day of August, A. D. 19 80

Shonda J. Kutz
Notary Public

My Commission expires: 12-20-81

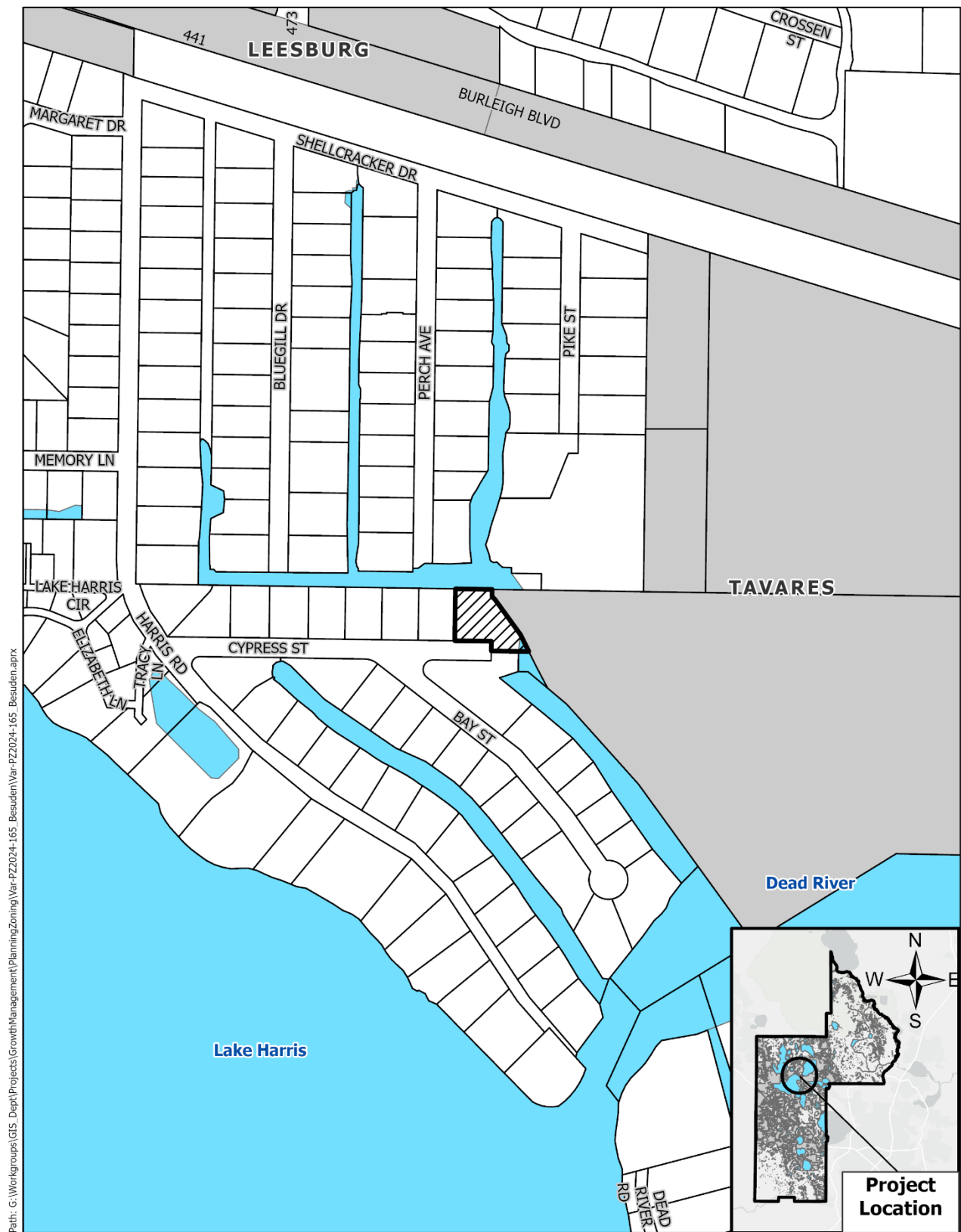
STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
PE AUG-1'80 350.00

SPACED BELOW FOR RECORDERS USE

This document was prepared by
Richard E. Brinkman, an employee of
Lawrence Title Insurance Corporation
312 N. Main St., Tallahassee, Fla. 32301

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Map of Subject Property

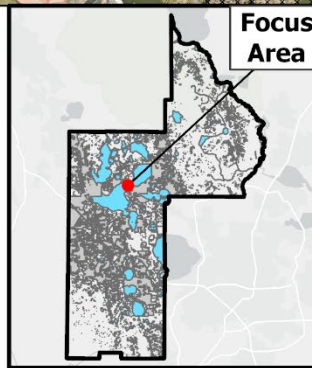


Aerial Map of Subject Property

**Var-PZ2024-245
Besuden Property**



Variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) and Table 3.02.06, to 1) allow an accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required fifty (50) foot setback and 2) to allow for an ISR of 33.6%, in lieu of the maximum ISR of 30%.



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4/17/2025

FINAL DEVELOPMENT ORDER

(PZ2024-245 / AR 5782)

WHEREAS, Kimberly A. Besuden (the “Owner”) requested a variance to Land Development Regulations (LDR) Section 6.01.04(A)(1) and Table 3.02.06, to 1) allow an accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required fifty (50) foot setback and 2) to allow for an ISR of 33.6%, in lieu of the maximum ISR of 30%; and

WHEREAS, the subject property consists of 0.46 +/- acres, is located at 11135 Cypress Street, in the unincorporated Tavares area of Lake County, in Section 25, Township 19 South, Range 25 East, having Alternate Key Number 1734479, and more particularly described in Exhibit “A”; and

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on July 2, 2025; and

WHEREAS, the Board of Adjustment reviewed the petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

DONE AND ORDERED by the Board of Adjustment of Lake County, Florida, that:

Variance Granted: To Land Development Regulations (LDR) Section 6.01.04(A)(1) and Table 3.02.06, to 1) allow an accessory dwelling unit to remain constructed nine (9) feet from the ordinary high-water line, mean high water line, or jurisdictional wetland line, in lieu of the required 50’ setback and 2) to allow for an ISR of 33.6%, in lieu of the maximum ISR of 30%.

Conditions: Prior to the issuance of the zoning permit for the improvement/addition:

1. The maximum developable area shall be limited to 30 feet in width or depth.
2. Stormwater calculations must be submitted at the time of issuance of each individual zoning permit for an interceptor/environmental swale that is sized to capture the first one inch (1”) of stormwater runoff from the additional impervious area on the subject parcel.
3. Storm water calculations must be reviewed and approved by the Lake County Public Works Department.
4. The storm water abatement system must be depicted on a scaled plot plan with an engineered design that includes a plan and calculations and must be submitted with the zoning permit application for improvement/addition for the site.
5. No further structures shall be permitted to be constructed or placed on the property as the maximum ISR has been exceeded as part of this variance approval.

Inspection: Prior to the issuance of the Final Inspection for the improvement/addition the storm water abatement system must be installed prior to any final inspection, inspected and approved by the Lake County Public Works Department.

Notice to Owner(s): The property owners, their successors and assigns, are hereby placed on notice that placing structures closer to the Ordinary High-Water Line, Mean High Water Line, or Jurisdictional Wetland Line, may increase the likelihood of flooding on the property subject to this variance, or to adjacent properties. Approval of this variance does not relieve property owners, their successors, or assignees, from responsibility or liability for flooding or other damage that may be incurred from altering the required setbacks.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Bea L. Meeks, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this 2nd day of July 2025, by Bea L. Meeks, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

(SEAL)

Notary Signature

Pursuant to Section 286.0105, Florida Statutes, if any person desires to appeal any decision with respect to a matter considered at a public meeting or hearing of the Board of Adjustment, such person will need a record of the proceedings, and such person may need to ensure that a verbatim record for such purpose is made, which record includes the testimony and evidence upon which the appeal is based.

A final administrative order of the Board of Adjustment may be appealed to the Circuit Court in Lake County, Florida. Such an appeal shall be filed within thirty (30) days of the execution of this Order. Those filing an appeal of an administrative order must comply with all applicable Florida Rules of Appellate Procedure.

Exhibit "A" – Legal Description

Lot 21, RIVERWOOD UNIT TWO, a subdivision in Lake County, Florida, according to the plat thereof, recorded in Plat Book 17, Page 13, Public Records of Lake County, Florida.

Also: That part of Government Lot 4 in Section 25, Township 19 South, Range 25 East, in Lake County, Florida, bounded and described as follows: Begin at the Southeast corner of Lot 21 in Riverwood Unit Two, a subdivision in Lake County, Florida, according to the plat thereof, recorded in Plat Book 17, Page 13, Public Records of Lake County, Florida, and run South 0 degrees 01'30" West to the centerline of Cypress Street, now vacated, as shown on the said plat of Riverwood Unit Two; thence East along the centerline of the said Cypress Street and an extension East thereof to the waters edge of a canal; thence Northwesterly along and with the waters of the said canal to the East line of the said Lot 21; thence South 0 degrees 01'30" West along the East line of the said Lot 21 to the Point of Beginning.

